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THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

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UNITED STATES OF AMERICA,  
  
Plaintiff,

v.

MARLON ALONZO SMITH,  
  
Defendant.

**MEMORANDUM DECISION AND  
ORDER DISMISSING MOTION  
TO COMPEL COUNSEL TO  
RELEASE FILES AND RECORD**

Case No. 2:16-cr-00020-DN

District Judge David Nuffer

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Defendant seeks an order compelling defense counsel to turn over to him all records and files in the case (“Motion”).<sup>1</sup> However, final judgment<sup>2</sup> has entered in this case and the Tenth Circuit Court of Appeals has affirmed Defendant’s conviction and sentence.<sup>3</sup>

“After entry of final judgment, a district court has jurisdiction only to the extent permitted by statute or rule.”<sup>4</sup> And the district court’s original jurisdiction under [18 U.S.C. § 3231](#) does not confer “jurisdiction over all post-conviction motions.”<sup>5</sup> Defendant cites no legal authority that would confer jurisdiction over his Motion. The Tenth Circuit Court of Appeals has also held that the district court lacks jurisdiction to address the merits of post-conviction motions to compel counsel to provide a criminal defendant with counsel’s case file.<sup>6</sup> Therefore,

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<sup>1</sup> Motion to Compel Counsel to Release Files and Record (“Motion”), [docket no. 248](#), filed Sept. 30, 2022.

<sup>2</sup> Judgment in a Criminal Case, [docket no. 181](#), filed Oct. 2, 2018.

<sup>3</sup> Order and Judgment, [docket no. 200](#), filed Feb. 25, 2020.

<sup>4</sup> *United States v. James*, 728 Fed. App’x 818, 822 (10th Cir. 2018).

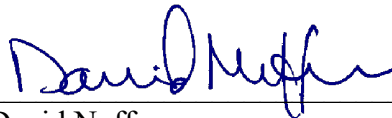
<sup>5</sup> *Id.*

<sup>6</sup> *Id.*; *United States v. Garcia-Herrera*, 894 F.3d 1219, 1220 (10th Cir. 2018); *United States v. Benitez*, 720 Fed. App’x 509, 510-11 (10th Cir. 2018).

IT IS HEREBY ORDERED that Defendant's Motion<sup>7</sup> is DISMISSED for lack of jurisdiction.

Signed October 11, 2022.

BY THE COURT

A handwritten signature in blue ink, appearing to read "David Nuffer", is written over a horizontal line.

David Nuffer  
United States District Judge

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<sup>7</sup> [Docket no. 248](#), filed Sept. 30, 2022.